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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,569	09/08/2005	Gil Sam Park	026032-4821	8358

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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06/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/509,569	Applicant(s) PARK, GIL SAM	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 21, 2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5-26 are rejected under 35 U.S.C. 103(a) as being anticipated by Nishino (4,738,427) in view of Niezoldt (5,791,738). Nishino discloses a seat for a vehicle (Figure 3): comprising: a pair of support frames (8)(8) supported by the vehicle body; a seat back (1)(A) including a seat back frame (1); a reclining device (6) configured to allow the seat back (1)(A) to tilt and support the seat back (1)(A) in a tilting position, the reclining device (6) being supported by an installed on the support frames (8)(8); and a lifter device (3) configured to allow a seat cushion portion (2)(A) to tip up and support

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the seat cushion portion (2)(A) in a tipping position, the lifter device (3) being supported by and installed on the support frames (8)(8) wherein the reclining device (6) comprises a device mechanism and covers lower ends of the seat back frame (1) as best depicted in Figure 3. The lower end of the seat back frame (1) is supported

The lifter device (3) comprises a first sector gear (20) and a second gear (19) to allow the seat cushion portion (2)(A) to tip up and support the seat cushion portion (2)(A) in a tipping position. The lifter (3) further comprises a first projection (17) and a second projection (22) on an inner portion (unlabeled) of the first and second support members (8). The gear (second gear) (19) is pivotally supported on the first projection (17) and the sector gear (first gear) (20) is pivotally supported in the second projection (22).

As disclosed above, Nishino reveals all claimed elements with the exception of a seat back frame made from a pipe/tube and sub-frames welded to the seat back frame and also made from pipes/tubes having upper cut ends and lower ends, wherein each lower end of the frame and sub-frames is spaced in the fore-aft direction and the reclining device falls within the space.

Niezoldt (5,791,738) discloses a seat back (1) including a first tubular/pipe frame (4) and a second tubular/pipe frame or sub-frame (3) having lower ends that are spaced apart in the fore-aft direction and a hook element (12) for receiving a reclining device, in the form of a swivel pin, which falls within the space between the lower ends of the first and second tubular frames. An upper end of the sub-frame (3) is welded to an upper portion of the seatback frame (4). The first (4) and second (3) frames are welded

together at top portions (7)(6) as described in column 2, lines 35-40. Each of the sub-frames has an upper cut end as is best disclosed in Figure 1. The "upper cut" corresponds to a right angle cut out portion that receives an edge of reinforcement portion (8). This angle is capable of being formed by a cutting process and therefore constitutes an "upper cut end." A third frame (13) is welded at its ends to the first and second frames at a lower end thereof by way of hook element (12) which extends rearward of the lower ends of the first and second frame in a fore-aft direction.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to replace the seat back (1)(A) disclosed by Nishino with the seat back taught by Niezoldt. Such a modification would create "a considerable increase in the seat back's stability under load both towards the front and the back" (column 3, lines 2-3).

Response to Amendment/Arguments

4. Applicant's remarks and arguments filed on March 24, 2008 have been considered in their entirety.

Applicant argues that the combination of Nishino and Niezoldt fails to disclose teach or suggest sub-frames being cut from a pipe to have an upper cut end and a lower end. As explained above, each of the sub-frames has an upper cut end as is best disclosed in Figure 1. The "upper cut" corresponds to a right angle cut out portion that receives an edge of reinforcement portion (8). Each sub-frame extends upward along the side edge of the seating device. Each sub-frame has an upper cut end where the

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frame element bends at a substantially right angle. In the right angle bent portion of each sub-frame a notch or cut out portion is present. This portion constitutes an upper cut end. Applicant argues that Nishino teaches away from a seat back with anything less than two one-piece tubular frame members. The Examiner contends that frame portion (3) constitutes a plurality of sub-frames (i.e. one on the left and one on the right side edges of the backrest). Each sub-frame has a lower end and an upper cut end. The claim language does not preclude a one piece element from meeting the claim limitations. It does not require, for example, a first sub-frame having an upper cut end and a lower cut end spaced apart and separate from a second sub-frame having an upper cut end and a lower end. The claim language also does not require that each sub-frame be cut from separate pipe elements.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Primary Examiner
Art Unit 3636

SBM
May 30, 2008